

AMENDED IN ASSEMBLY SEPTEMBER 5, 2013

AMENDED IN ASSEMBLY AUGUST 30, 2013

AMENDED IN ASSEMBLY AUGUST 19, 2013

AMENDED IN ASSEMBLY AUGUST 7, 2013

AMENDED IN SENATE MAY 20, 2013

AMENDED IN SENATE APRIL 29, 2013

AMENDED IN SENATE APRIL 1, 2013

## **SENATE BILL**

**No. 760**

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### **Introduced by Senator Wright**

(Principal coauthor: Assembly Member V. Manuel Pérez)

February 22, 2013

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An act to amend ~~Sections 399.11, 399.13, 399.15, and 399.16~~ *Section 399.13* of the Public Utilities Code, relating to energy.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 760, as amended, Wright. California Renewables Portfolio Standard Program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The California

Renewables Portfolio Standard Program requires a retail seller, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 20% of retail sales for the period January 1, 2011, to December 31, 2013, inclusive, 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and in all subsequent years. The program requires the commission to direct each retail seller to prepare and submit an annual compliance report that includes specified matter. *periods.*

This bill would additionally require the commission to direct a retail seller to include in its annual compliance report the current status of the retail seller's procurement to ensure a balanced mix of eligible renewable energy resources required to maintain the reliability of the electrical grid without increasing fossil fuel consumption.

The program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified, referred to as the portfolio content requirements. The program requires the commission to adopt, by rulemaking, a process that provides criteria for the rank ordering and selecting of least-cost and best-fit eligible renewable energy resources to comply with the program obligations on a total cost basis, taking into account specified matter.

This bill would additionally require that the process providing criteria for the rank ordering and selecting of least-cost and best-fit eligible renewable energy resources to comply with the program obligations include procurement of specific types of eligible renewable energy resources necessary to maintain the reliability of the electrical grid to meet electrical demand on a 24-hour basis, *basis and* consider the attributes of utilizing geothermal *and other renewable energy* resources, as specified, and consider eligible renewable energy resources in the area of the Salton Sea that provide additional environmental benefits that should be encouraged to meet the state's mitigation requirements for the region. The bill would revise the portfolio content requirements. *specified. The bill would require each electrical corporation, in soliciting and procuring eligible renewable energy resources, to*

*consider the best-fit attributes of resource types that ensure a balanced resource mix to maintain the reliability of the electrical grid.*

~~Existing law requires that a renewable energy procurement plan submitted by an electrical corporation to the commission include specified matter, including an assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics.~~

~~This bill would additionally require that the renewable energy procurement plan submitted by an electrical corporation to the commission identify each source of supply by resource type and detail how the mix of resources will maintain reliability of the electrical grid throughout each 24-hour period. The bill would require each electrical corporation, in soliciting and procuring eligible renewable energy resources, to give preference to resource types that will contribute toward ensuring a balanced resource mix that maintains reliability of the electrical grid throughout each 24-hour period without increasing consumption of fossil fuels.~~

~~Existing law authorizes the commission to waive compliance with the renewables portfolio standard for a retail seller if the commission finds that the retail seller has demonstrated specified conditions are beyond the control of the retail seller that will prevent compliance.~~

~~This bill would revise certain criteria the commission considers when determining whether to waive compliance with the renewables portfolio standard.~~

~~Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.~~

~~Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by expanding what is a crime.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: *yes-no*.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. Section 399.11 of the Public Utilities Code is~~  
2 ~~amended to read:~~

3 ~~399.11. The Legislature finds and declares all of the following:~~

4 ~~(a) In order to attain a target of generating 20 percent of total~~  
5 ~~retail sales of electricity in California from eligible renewable~~  
6 ~~energy resources by December 31, 2013, and 33 percent by~~  
7 ~~December 31, 2020, it is the intent of the Legislature that the~~  
8 ~~commission and the Energy Commission implement the California~~  
9 ~~Renewables Portfolio Standard Program described in this article.~~

10 ~~(b) Achieving the renewables portfolio standard through the~~  
11 ~~procurement of various electricity products representing a balanced~~  
12 ~~mix of eligible renewable energy resources is intended to provide~~  
13 ~~unique benefits to California, including all of the following, each~~  
14 ~~of which independently justifies the program:~~

15 ~~(1) Displacing fossil fuel consumption within the state.~~

16 ~~(2) Adding new electrical generating facilities in the~~  
17 ~~transmission network within the Western Electricity Coordinating~~  
18 ~~Council service area.~~

19 ~~(3) Reducing air pollution in the state.~~

20 ~~(4) Meeting the state's climate change goals by reducing~~  
21 ~~emissions of greenhouse gases associated with electrical generation.~~

22 ~~(5) Promoting stable retail rates for electric service.~~

23 ~~(6) Meeting the state's need for a diversified and balanced~~  
24 ~~energy generation portfolio.~~

25 ~~(7) Assistance with meeting the state's resource adequacy~~  
26 ~~requirements in both the near and long term.~~

27 ~~(8) Contributing to the safe and reliable operation of the~~  
28 ~~electrical grid, including providing predictable electrical supply,~~  
29 ~~voltage support, lower line losses, and congestion relief, and~~  
30 ~~ensuring resource availability and characteristics that match the~~  
31 ~~demand for electricity.~~

32 ~~(9) Implementing the state's transmission and land use planning~~  
33 ~~activities related to development of eligible renewable energy~~  
34 ~~resources.~~

35 ~~(c) The California Renewables Portfolio Standard Program is~~  
36 ~~intended to complement the Renewable Energy Resources Program~~  
37 ~~administered by the Energy Commission and established pursuant~~  
38 ~~to Chapter 8.6 (commencing with Section 25740) of Division 15~~  
39 ~~of the Public Resources Code.~~

1 ~~(d) New and modified electric transmission facilities may be~~  
2 ~~necessary to facilitate the state achieving its renewables portfolio~~  
3 ~~standard targets.~~

4 ~~(e) (1) Supplying electricity to California end-use customers~~  
5 ~~that is generated by eligible renewable energy resources is~~  
6 ~~necessary to improve California's air quality and public health,~~  
7 ~~and the commission shall ensure rates are just and reasonable, and~~  
8 ~~are not significantly affected by the procurement requirements of~~  
9 ~~this article. This electricity may be generated anywhere in the~~  
10 ~~interconnected grid that includes many states, and areas of both~~  
11 ~~Canada and Mexico.~~

12 ~~(2) This article requires generating resources located outside of~~  
13 ~~California that are able to supply that electricity to California~~  
14 ~~end-use customers to be treated identically to generating resources~~  
15 ~~located within the state, without discrimination.~~

16 ~~(3) California electrical corporations have already executed,~~  
17 ~~and the commission has approved, power purchase agreements~~  
18 ~~with eligible renewable energy resources located outside of~~  
19 ~~California that will supply electricity to California end-use~~  
20 ~~customers. These resources will fully count toward meeting the~~  
21 ~~renewables portfolio standard procurement requirements. In~~  
22 ~~addition, there are nearly 7,000 megawatts of additional proposed~~  
23 ~~renewable energy resources located outside of California that are~~  
24 ~~awaiting interconnection approval from the Independent System~~  
25 ~~Operator. All of these resources, if procured, will count as eligible~~  
26 ~~renewable energy resources that satisfy the portfolio content~~  
27 ~~requirements of paragraph (1) of subdivision (c) of Section 399.16.~~

28 ~~SEC. 2.~~

29 *SECTION 1.* Section 399.13 of the Public Utilities Code is  
30 amended to read:

31 399.13. (a) (1) The commission shall direct each electrical  
32 corporation to annually prepare a renewable energy procurement  
33 plan that includes the matter in paragraph (5), to satisfy its  
34 obligations under the renewables portfolio standard. To the extent  
35 feasible, this procurement plan shall be proposed, reviewed, and  
36 adopted by the commission as part of, and pursuant to, a general  
37 procurement plan process. The commission shall require each  
38 electrical corporation to review and update its renewable energy  
39 procurement plan as it determines to be necessary.

(2) Every electrical corporation that owns electrical transmission facilities shall annually prepare, as part of the Federal Energy Regulatory Commission Order 890 process, and submit to the commission, a report identifying any electrical transmission facility, upgrade, or enhancement that is reasonably necessary to achieve the renewables portfolio standard procurement requirements of this article. Each report shall look forward at least five years and, to ensure that adequate investments are made in a timely manner, shall include a preliminary schedule when an application for a certificate of public convenience and necessity will be made, pursuant to Chapter 5 (commencing with Section 1001), for any electrical transmission facility identified as being reasonably necessary to achieve the renewable energy resources procurement requirements of this article. Each electrical corporation that owns electrical transmission facilities shall ensure that project-specific interconnection studies are completed in a timely manner.

(3) The commission shall direct each retail seller to prepare and submit an annual compliance report that includes all of the following:

(A) The current status and progress made during the prior year toward procurement of eligible renewable energy resources as a percentage of retail sales, including, if applicable, the status of any necessary siting and permitting approvals from federal, state, and local agencies for those eligible renewable energy resources procured by the retail seller, and the current status of compliance with the portfolio content requirements of subdivision (c) of Section 399.16, including procurement of eligible renewable energy resources located outside the state and within the WECC and unbundled renewable energy credits.

(B) If the retail seller is an electrical corporation, the current status and progress made during the prior year toward construction of, and upgrades to, transmission and distribution facilities and other electrical system components it owns to interconnect eligible renewable energy resources and to supply the electricity generated by those resources to load, including the status of planning, siting, and permitting transmission facilities by federal, state, and local agencies.

1 (C) Recommendations to remove impediments to making  
2 progress toward achieving the renewable energy resources  
3 procurement requirements established pursuant to this article.

4 ~~(D) The current status of the retail seller's procurement to ensure~~  
5 ~~a balanced mix of eligible renewable energy resources required to~~  
6 ~~maintain the reliability of the electrical grid without increasing~~  
7 ~~fossil fuel consumption.~~

8 (4) The commission shall adopt, by rulemaking, all of the  
9 following:

10 (A) A process that provides criteria for the rank ordering and  
11 selecting of least-cost and best-fit eligible renewable energy  
12 resources to comply with the California Renewables Portfolio  
13 Standard Program obligations on a total cost *and best-fit* basis.  
14 This process shall take into account all of the following:

15 (i) Estimates of indirect costs associated with needed  
16 transmission investments and ongoing electrical corporation  
17 expenses resulting from integrating and operating eligible  
18 renewable energy resources.

19 (ii) The cost impact of procuring the eligible renewable energy  
20 resources on the electrical corporation's electricity portfolio.

21 (iii) The viability of the project to construct and reliably operate  
22 the eligible renewable energy resource, including the developer's  
23 experience, the feasibility of the technology used to generate  
24 electricity, and the risk that the facility will not be built, or that  
25 construction will be delayed, with the result that electricity will  
26 not be supplied as required by the contract.

27 (iv) Workforce recruitment, training, and retention efforts,  
28 including the employment growth associated with the construction  
29 and operation of eligible renewable energy resources and goals  
30 for recruitment and training of women, minorities, and disabled  
31 veterans.

32 (v) Procurement of specific types of eligible renewable energy  
33 resources necessary to maintain the reliability of the electrical grid  
34 to meet electrical demand on a 24-hour basis, including identifying  
35 the eligible renewable energy resources by type and operating  
36 characteristics.

37 (vi) Consideration of the attributes of utilizing geothermal *and*  
38 *other renewable energy* resources, including their system inertia,  
39 small footprint in terms of surface land requirements, habitat and  
40 other environmental impacts, their ability to provide *local*

1 *reliability and* baseload generation ~~while reducing emissions~~  
2 ~~resulting from the burning of fossil fuels in an air basin designated~~  
3 ~~as including a federal extreme nonattainment area, and their ability~~  
4 ~~to act as a hedge against fuel price increases to ensure a balanced~~  
5 ~~portfolio.~~

6 ~~(vii) Consideration of eligible renewable energy resources in~~  
7 ~~the area of the Salton Sea that provide additional environmental~~  
8 ~~benefits that should be encouraged to meet the state's mitigation~~  
9 ~~requirements for the region.~~

10 (B) Rules permitting retail sellers to accumulate, beginning  
11 January 1, 2011, excess procurement in one compliance period to  
12 be applied to any subsequent compliance period. The rules shall  
13 apply equally to all retail sellers. In determining the quantity of  
14 excess procurement for the applicable compliance period, the  
15 commission shall deduct from actual procurement quantities, the  
16 total amount of procurement associated with contracts of less than  
17 10 years in duration. In no event shall electricity products meeting  
18 the portfolio content of paragraph (3) of subdivision (b) of Section  
19 399.16 be counted as excess procurement.

20 (C) Standard terms and conditions to be used by all electrical  
21 corporations in contracting for eligible renewable energy resources,  
22 including performance requirements for renewable generators. A  
23 contract for the purchase of electricity generated by an eligible  
24 renewable energy resource, at a minimum, shall include the  
25 renewable energy credits associated with all electricity generation  
26 specified under the contract. The standard terms and conditions  
27 shall include the requirement that, no later than six months after  
28 the commission's approval of an electricity purchase agreement  
29 entered into pursuant to this article, the following information  
30 about the agreement shall be disclosed by the commission: party  
31 names, resource type, project location, and project capacity.

32 (D) An appropriate minimum margin of procurement above the  
33 minimum procurement level necessary to comply with the  
34 renewables portfolio standard to mitigate the risk that renewable  
35 projects planned or under contract are delayed or canceled ~~or to~~  
36 ~~achieve the required balanced mix of eligible renewable energy~~  
37 ~~resources.~~ This paragraph does not preclude an electrical  
38 corporation from voluntarily proposing a margin of procurement  
39 above the appropriate minimum margin established by the  
40 commission.



1 (5) Consistent with the goal of increasing California's reliance  
2 on eligible renewable energy resources, the renewable energy  
3 procurement plan submitted by an electrical corporation shall  
4 include all of the following:

5 (A) An assessment of annual or multiyear portfolio supplies  
6 and demand to determine the optimal mix of eligible renewable  
7 energy resources with deliverability characteristics that may include  
8 peaking, dispatchable, baseload, firm, and as-available capacity;  
9 ~~with identification of each source of supply by resource type and~~  
10 ~~detail on how the mix of resources will maintain reliability of the~~  
11 ~~electrical grid throughout each 24-hour period.~~ *capacity.*

12 (B) Potential compliance delays related to the conditions  
13 described in paragraph (4) of subdivision (b) of Section 399.15.

14 (C) A bid solicitation setting forth the need for eligible  
15 renewable energy resources of each deliverability characteristic,  
16 required online dates, and locational preferences, if any.

17 (D) A status update on the development schedule of all eligible  
18 renewable energy resources currently under contract.

19 (E) Consideration of mechanisms for price adjustments  
20 associated with the costs of key components for eligible renewable  
21 energy resource projects with online dates more than 24 months  
22 after the date of contract execution.

23 (F) An assessment of the risk that an eligible renewable energy  
24 resource will not be built, or that construction will be delayed,  
25 with the result that electricity will not be delivered as required by  
26 the contract.

27 (6) In soliciting and procuring eligible renewable energy  
28 resources, each electrical corporation shall offer contracts of no  
29 less than 10 years duration, unless the commission approves of a  
30 contract of shorter duration.

31 (7) In soliciting and procuring eligible renewable energy  
32 resources for California-based projects, each electrical corporation  
33 shall give preference to renewable energy projects that provide  
34 environmental and economic benefits to communities afflicted  
35 with poverty or high unemployment, or that suffer from high  
36 emission levels of toxic air contaminants, criteria air pollutants,  
37 and greenhouse gases.

38 (8) In soliciting and procuring eligible renewable energy  
39 resources, each electrical corporation shall ~~give preference to~~  
40 ~~resource types that will contribute toward ensuring a balanced~~

~~resource mix that maintains reliability of the electrical grid throughout each 24-hour period without increasing consumption of fossil fuels. consider the best-fit attributes of resource types that ensure a balanced resource mix to maintain the reliability of the electrical grid.~~

(b) A retail seller may enter into a combination of long- and short-term contracts for electricity and associated renewable energy credits. The commission may authorize a retail seller to enter into a contract of less than 10 years' duration with an eligible renewable energy resource, if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured through contracts of at least 10 years' duration.

(c) The commission shall review and accept, modify, or reject each electrical corporation's renewable energy resource procurement plan prior to the commencement of renewable energy procurement pursuant to this article by an electrical corporation.

(d) Unless previously preapproved by the commission, an electrical corporation shall submit a contract for the generation of an eligible renewable energy resource to the commission for review and approval consistent with an approved renewable energy resource procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.

(e) If an electrical corporation fails to comply with a commission order adopting a renewable energy resource procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance. The commission shall enforce comparable penalties on any retail seller that is not an electrical corporation that fails to meet the procurement targets established pursuant to Section 399.15.

(f) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for electricity products from eligible renewable energy resources to satisfy the retail seller's renewables portfolio standard procurement requirements. The commission shall not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

(g) Procurement and administrative costs associated with contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission are reasonable and prudent and shall be recoverable in rates.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives pursuant to Section 25742 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives, are “public works” for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

~~SEC. 3. Section 399.15 of the Public Utilities Code is amended to read:~~

~~399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all retail sellers to procure a minimum quantity of electricity products from eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each compliance period to achieve the targets established under this article. For any retail seller procuring at least 14 percent of retail sales from eligible renewable energy resources in 2010, the deficits associated with any previous renewables portfolio standard shall not be added to any procurement requirement pursuant to this article.~~

~~(b) The commission shall implement renewables portfolio standard procurement requirements only as follows:~~

~~(1) Each retail seller shall procure a minimum quantity of eligible renewable energy resources for each of the following compliance periods:~~

~~(A) January 1, 2011, to December 31, 2013, inclusive.~~

~~(B) January 1, 2014, to December 31, 2016, inclusive.~~

~~(C) January 1, 2017, to December 31, 2020, inclusive.~~

~~(2) (A) No later than January 1, 2012, the commission shall establish the quantity of electricity products from eligible renewable energy resources to be procured by the retail seller for each compliance period. These quantities shall be established in the same manner for all retail sellers and result in the same percentages used to establish compliance period quantities for all retail sellers.~~

~~(B) In establishing quantities for the compliance period from January 1, 2011, to December 31, 2013, inclusive, the commission shall require procurement for each retail seller equal to an average of 20 percent of retail sales. For the following compliance periods, the quantities shall reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33 percent of retail sales by December 31, 2020. The commission shall require retail sellers to procure not less than 33 percent of retail sales of electricity products from eligible renewable energy resources in all subsequent years.~~

~~(C) Retail sellers shall be obligated to procure no less than the quantities associated with all intervening years by the end of each compliance period. Retail sellers shall not be required to demonstrate a specific quantity of procurement for any individual intervening year.~~

~~(3) The commission shall not require the procurement of eligible renewable energy resources in excess of the quantities identified in paragraph (2), except to the extent necessary to ensure a balanced mix of eligible renewable energy resources with attributes necessary to ensure an adequate and reliable supply of electrical generation from eligible renewable energy resources that best matches the demand for electricity and maintains the reliability of the electrical grid. A retail seller may voluntarily increase its procurement of eligible renewable energy resources beyond the renewables portfolio standard procurement requirements.~~

~~(4) Only for purposes of establishing the renewables portfolio standard procurement requirements of paragraph (1) and determining the quantities pursuant to paragraph (2), the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Division 27~~

~~(commencing with Section 80000) of the Water Code in the calculation of retail sales by an electrical corporation.~~

~~(5) The commission shall waive enforcement of this section if it finds that the retail seller has demonstrated any of the following conditions are beyond the control of the retail seller and will prevent compliance:~~

~~(A) There is inadequate transmission capacity to allow for sufficient electricity to be delivered from proposed eligible renewable energy resource projects using the current operational protocols of the Independent System Operator. In making its findings relative to the existence of this condition with respect to a retail seller that owns transmission lines, the commission shall consider both of the following:~~

~~(i) Whether the retail seller has undertaken, in a timely fashion, reasonable measures under its control and consistent with its obligations under local, state, and federal laws and regulations, to develop and construct new transmission lines or upgrades to existing lines intended to transmit electricity generated by eligible renewable energy resources. In determining the reasonableness of a retail seller's actions, the commission shall consider the retail seller's expectations for full-cost recovery for these transmission lines and upgrades.~~

~~(ii) Whether the retail seller has taken all reasonable operational measures to maximize cost-effective deliveries of electricity from eligible renewable energy resources in advance of transmission availability.~~

~~(B) Permitting, interconnection, or other circumstances that delay procured eligible renewable energy resource projects, or there is an insufficient supply of eligible renewable energy resources available to the retail seller. In making a finding that this condition prevents timely compliance, the commission shall consider whether the retail seller has done all of the following:~~

~~(i) Prudently managed portfolio risks, including relying on a sufficient number of viable projects and procuring a sufficiently balanced mix of different types of eligible renewable energy resources with characteristics sufficient to maintain reliability of the electrical grid, including system inertia.~~

~~(ii) Sought to develop one of the following: its own eligible renewable energy resources, transmission to interconnect to eligible renewable energy resources, or energy storage used to integrate~~

1 eligible renewable energy resources. This clause shall not require  
2 an electrical corporation to pursue development of eligible  
3 renewable energy resources pursuant to Section 399.14.

4 (iii) Procured an appropriate minimum margin of procurement  
5 above the minimum procurement level necessary to comply with  
6 the renewables portfolio standard to compensate for foreseeable  
7 delays or insufficient supply.

8 (iv) Taken reasonable measures, under the control of the retail  
9 seller, to procure cost-effective distributed generation and allowable  
10 unbundled renewable energy credits.

11 (C) Unanticipated curtailment of eligible renewable energy  
12 resources necessary to address the needs of a balancing authority,  
13 but only to the extent that the retail seller has demonstrated that it  
14 has procured a balanced mix of different resource types with  
15 characteristics sufficient to maintain reliability of the electrical  
16 grid, including system inertia.

17 (6) If the commission waives the compliance requirements of  
18 this section, the commission shall establish additional reporting  
19 requirements on the retail seller to demonstrate that all reasonable  
20 actions under the control of the retail seller are taken in each of  
21 the intervening years sufficient to satisfy future procurement  
22 requirements.

23 (7) The commission shall not waive enforcement pursuant to  
24 this section, unless the retail seller demonstrates that it has taken  
25 all reasonable actions under its control, as set forth in paragraph  
26 (5), to achieve full compliance.

27 (8) If a retail seller fails to procure sufficient eligible renewable  
28 energy resources to comply with a procurement requirement  
29 pursuant to paragraphs (1) and (2) and fails to obtain an order from  
30 the commission waiving enforcement pursuant to paragraph (5),  
31 the commission shall exercise its authority pursuant to Section  
32 2113.

33 (9) Deficits associated with the compliance period shall not be  
34 added to a future compliance period.

35 (e) The commission shall establish a limitation for each electrical  
36 corporation on the procurement expenditures for all eligible  
37 renewable energy resources used to comply with the renewables  
38 portfolio standard. In establishing this limitation, the commission  
39 shall rely on the following:

40 (1) The most recent renewable energy procurement plan.

1 ~~(2) Procurement expenditures that approximate the expected~~  
2 ~~cost of building, owning, and operating eligible renewable energy~~  
3 ~~resources.~~

4 ~~(3) The potential that some planned resource additions may be~~  
5 ~~delayed or canceled.~~

6 ~~(4) The amount of additional eligible renewable energy resources~~  
7 ~~of specific characteristics required to be procured to ensure~~  
8 ~~reliability of the electrical grid.~~

9 ~~(d) In developing the limitation pursuant to subdivision (c), the~~  
10 ~~commission shall ensure all of the following:~~

11 ~~(1) The limitation is set at a level that prevents disproportionate~~  
12 ~~rate impacts.~~

13 ~~(2) The costs of all procurement credited toward achieving the~~  
14 ~~renewables portfolio standard are counted towards the limitation.~~

15 ~~(3) Procurement expenditures do not include any indirect~~  
16 ~~expenses, including imbalance energy charges, sale of excess~~  
17 ~~energy, decreased generation from existing resources, transmission~~  
18 ~~upgrades, or the costs associated with relicensing any utility-owned~~  
19 ~~hydroelectric facilities.~~

20 ~~(e) (1) No later than January 1, 2016, the commission shall~~  
21 ~~prepare a report to the Legislature assessing whether each electrical~~  
22 ~~corporation can achieve a 33-percent renewables portfolio standard~~  
23 ~~by December 31, 2020, and maintain that level thereafter, within~~  
24 ~~the adopted cost limitations. If the commission determines that it~~  
25 ~~is necessary to change the limitation for procurement costs incurred~~  
26 ~~by any electrical corporation after that date, it may propose a~~  
27 ~~revised cap consistent with the criteria in subdivisions (c) and (d).~~  
28 ~~The proposed modifications shall take effect no earlier than January~~  
29 ~~1, 2017.~~

30 ~~(2) Notwithstanding Section 10231.5 of the Government Code,~~  
31 ~~the requirement for submitting a report imposed under paragraph~~  
32 ~~(1) is inoperative on January 1, 2021.~~

33 ~~(3) A report to be submitted pursuant to paragraph (1) shall be~~  
34 ~~submitted in compliance with Section 9795 of the Government~~  
35 ~~Code.~~

36 ~~(f) If the cost limitation for an electrical corporation is~~  
37 ~~insufficient to support the projected costs of meeting the~~  
38 ~~renewables portfolio standard procurement requirements, the~~  
39 ~~electrical corporation may refrain from entering into new contracts~~  
40 ~~or constructing facilities beyond the quantity that can be procured~~

1 within the limitation, unless eligible renewable energy resources  
2 can be procured without exceeding a de minimis increase in rates,  
3 consistent with the long-term procurement plan established for the  
4 electrical corporation pursuant to Section 454.5.

5 (g) (1) The commission shall monitor the status of the cost  
6 limitation for each electrical corporation in order to ensure  
7 compliance with this article.

8 (2) If the commission determines that an electrical corporation  
9 may exceed its cost limitation prior to achieving the renewables  
10 portfolio standard procurement requirements, the commission shall  
11 do both of the following within 60 days of making that  
12 determination:

13 (A) Investigate and identify the reasons why the electrical  
14 corporation may exceed its annual cost limitation.

15 (B) Notify the appropriate policy and fiscal committees of the  
16 Legislature that the electrical corporation may exceed its cost  
17 limitation, and include the reasons why the electrical corporation  
18 may exceed its cost limitation.

19 (h) The establishment of a renewables portfolio standard shall  
20 not constitute implementation by the commission of the federal  
21 Public Utility Regulatory Policies Act of 1978 (Public Law  
22 95-617).

23 SEC. 4. Section 399.16 of the Public Utilities Code is amended  
24 to read:

25 399.16. (a) Various electricity products, with various  
26 characteristics, from eligible renewable energy resources located  
27 within the WECC transmission network service area shall be  
28 eligible to comply with the renewables portfolio standard  
29 procurement requirements in Section 399.15. These electricity  
30 products and characteristics, including system inertia, may be  
31 differentiated by their impacts on the operation of the electrical  
32 grid in supplying electricity and maintaining the reliability of the  
33 electrical grid, as well as, meeting the requirements of this article.

34 (b) Consistent with the goals of procuring the least-cost and  
35 best-fit electricity products from eligible renewable energy  
36 resources that meet project viability principles adopted by the  
37 commission pursuant to paragraph (4) of subdivision (a) of Section  
38 399.13 and that provide the benefits set forth in Section 399.11, a  
39 balanced portfolio of eligible renewable energy resources shall be



procured consisting of the following portfolio content categories and characteristics:

(1) Eligible renewable energy resource electricity products that meet any of the following criteria:

(A) Have a first point of interconnection with a California balancing authority, have a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or are scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source. The use of another source to provide real-time ancillary services required to maintain an hourly or subhourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the eligible renewable energy resource shall count toward this portfolio content category.

(B) Have an agreement to dynamically transfer electricity to a California balancing authority.

(C) Have characteristics that are capable of providing a diverse and balanced mix of eligible renewable energy resources that can contribute to maintaining reliability of the electrical grid to meet the demand for electricity in every 24-hour period and can include electrical generation produced on an as-available, firm, dispatchable, or ramping basis, providing system inertia benefits, whether from the generating facility alone or in combination with additional technologies, including energy storage.

(2) Firmed and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled into a California balancing authority.

(3) Eligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits, that do not qualify under the criteria of paragraph (1) or (2).

(e) In order to achieve a balanced portfolio, all retail sellers shall meet the following requirements for all procurement credited toward each compliance period:

(1) Not less than 50 percent for the compliance period ending December 31, 2013, 65 percent for the compliance period ending December 31, 2016, and 75 percent thereafter of the eligible renewable energy resource electricity products associated with

~~contracts executed after June 1, 2010, shall meet the product content requirements of paragraph (1) of subdivision (b).~~

~~(2) Not more than 25 percent for the compliance period ending December 31, 2013, 15 percent for the compliance period ending December 31, 2016, and 10 percent thereafter of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010, shall meet the product content requirements of paragraph (3) of subdivision (b).~~

~~(3) Any renewable energy resources contracts executed on or after June 1, 2010, not subject to the limitations of paragraph (1) or (2), shall meet the product content requirements of paragraph (2) of subdivision (b).~~

~~(4) For purposes of electric service providers only, the restrictions in this subdivision on crediting eligible renewable energy resource electricity products to each compliance period shall apply to contracts executed after January 13, 2011.~~

~~(d) Any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full toward the procurement requirements established pursuant to this article, if all of the following conditions are met:~~

~~(1) The renewable energy resource was eligible under the rules in place as of the date when the contract was executed.~~

~~(2) For an electrical corporation, the contract has been approved by the commission, even if that approval occurs after June 1, 2010.~~

~~(3) Any contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource. The duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.~~

~~(e) A retail seller may apply to the commission for a reduction of a procurement content requirement of subdivision (c). The commission may reduce a procurement content requirement of subdivision (c) to the extent the retail seller demonstrates that it cannot comply with that subdivision because of conditions beyond the control of the retail seller as provided in paragraph (5) of subdivision (b) of Section 399.15. The commission shall not, under any circumstance, reduce the obligation specified in paragraph (1) of subdivision (c) below 65 percent for any compliance obligation after December 31, 2016.~~

1 ~~SEC. 5. No reimbursement is required by this act pursuant to~~  
2 ~~Section 6 of Article XIII B of the California Constitution because~~  
3 ~~the only costs that may be incurred by a local agency or school~~  
4 ~~district will be incurred because this act creates a new crime or~~  
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
6 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
7 ~~the Government Code, or changes the definition of a crime within~~  
8 ~~the meaning of Section 6 of Article XIII B of the California~~  
9 ~~Constitution.~~

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